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March 12 2010

Via Hand Delivery

Michael Elabarger
Planner - Land Use Review
Loudoun County Department of Planning
One Harrison Street, Third Floor
Leesburg, VA 20176

Re: Belmont Glen Village ZCPA 2009-0007 & ZMOD 2009-0004
Referral Responses to 3rd Referrals

Dear Mr. Elabarger:

This letter addresses and provides you with a written response to the referral agency comments in the above referenced application. For your convenience, each of the staff comments are stated below and the Applicant's responses follow in bold italics.

**LOUDOUN COUNTY DEPARTMENT OF BUILDING & DEVELOPMENT – ZONING
ADMINISTRATION (VAL THOMAS, 2/23/2010)**

1. **Modification of required buffer adjacent to residential development, R-8 (Single-Family Residential) Zoning District, § 3-509(C), Additional Development Standards – Minimum Buffer.** A permanent common open space buffer of fifty (50) feet in depth with a Category 2 Buffer Yard (Section 5-1414(B)) shall be provided where a development adjoins an existing or planned residential district, land bay or development which has a minimum allowable lot size of 6,000 square feet or greater. Such buffer area may be included in open space calculations.

Section 4-109(C) Site Planning, External Relationships – Uses adjacent to single-family, agricultural, or residential districts or land bays allowing residential uses. Where residential uses in a PD-H district adjoin a single-family residential, agricultural, or residential district or land bay allowing residential uses, or a commercially zoned development approved subject to proffers prior to adoption of this ordinance, the development shall provide for either:

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ATTORNEYS AT LAW

- (1) Single family dwellings on minimum lots of (20,000) square feet or greater, exclusive of major floodplain, along such perimeter; or,
- (2) A permanent open space buffer along such perimeter at least fifty (50) feet in width, landscaped with a Type 2 Buffer Yard.

Proposed Modification – Along the boundary that adjoins the Goose Creek Preserve property to the northeast, the applicant proposes to provide:

- A minimum 25-foot permanent open space buffer along lot 37, a lot containing a minimum of 10,000 square feet;
- A minimum 30-foot permanent open space buffer along lots 48-50, lots containing a minimum of 9,000 square feet;
- A 25-foot rear yard along lots 38 and 39, lots containing a minimum of 7,500 square feet; lot 38 also has some permanent open space buffer less than 50 feet in dimension;
- A 25-foot yard plus 50-foot street right-of-way along lots 17, 18, and 19; lot 19 also has permanent open space buffer less than 50 feet in dimension between the street right-of-way and the zoning district boundary.

Applicant's Justification – The Applicant notes that the adjacent Goose Creek Preserve property is zoned PD-H4, at a higher density than Belmont Glen and has no required minimum lot size. Both properties propose single family detached units along the common property boundary and Goose Creek Preserve is providing an open space buffer along the common boundary with Belmont Glen Village. This open space buffer is wooded with mature stand of trees.

Staff Response – The public purpose of the 50-foot buffer requirement is to provide a visual separation between two zoning districts or residential land bays with potentially dissimilar lot sizes and to provide protection of the development from potentially adverse influences. While Staff does not believe that the development provides for an innovative design, the open space buffer provided on the adjacent development, the minimum required rear yard setback and reduced open space buffer on these few lots serves the required visual separation of the Ordinance. Further, the development is proposed to locate in close proximity to the Goose Creek Preserve property thus maximizing the open space buffer along Goose Creek (67% of the site will be maintained as open space). Staff can support this modification request.

Staff however asks that the Applicant includes Lot 47 in this modification request as it appears that part of the lot do not meet the minimum required permanent open space buffer of at least fifty (50) feet in width, landscaped with a Type 2 Buffer Yard. Further, please depict and label the proposed reduced 25-foot and 30-foot permanent open space buffer on the CDP (Sheet 3).

Applicant Response: *Lot 47 has been added to this modification, as recommended by staff, and the reduced open space buffer is shown on Sheet 3 of the CDP,*

2. **Modification of ADU Requirements to permit cash in lieu of units, § 7-103(A)(1) Single Family Detached and Single Family Attached Units.**

Proposed Modification - Request modification to permit cash buyout in lieu of the required Affordable Dwelling Units (ADUs), pursuant to Section 7-108(A)(3)

Staff comment- Staff supports this modification. Please see earlier referral for comments.

Applicant Response: *Comment noted.*

3. **Modification of Single-Family Detached Lot Yard Requirements – Section 3-506(C)(1) Lot Requirements –Single-Family Detached Dwellings Front and Side Yards**

Proposed Modification - For lots 1-13 and 193-196 only, the applicant proposes a 15 foot minimum front yard and a 9 foot minimum side yard. For the remainder of the lots, the applicant proposes a 6 foot minimum side yard with a 12 foot minimum distance between dwellings.

Applicant's Justification – None

Staff Comment – Pursuant to Section 6-1504 of the Ordinance, no modification shall be approved unless such modification to the regulations will achieve an innovative design, improve upon the existing regulations, or otherwise exceed the public purpose of the existing regulation. No modification will be granted for the primary purpose of achieving the maximum density on a site. An application for modification shall include materials demonstrating how the modification will be used in the design of the project.

Please provide a justification for the proposed modification and demonstrate how such modification achieve an innovative design, improve upon the existing regulations, or otherwise exceed the public purpose of the existing regulation.

Applicant Response: *A justification for this modification request has been included with this response letter.*

LOUDOUN COUNTY DEPARTMENT OF BUILDING & DEVELOPMENT – ZONING ADMINISTRATION-PROFFER REVIEW (LARR KELLY, 2/24/2010)

1. In regard to proffers 13. and 18., which proffer the provision of an “open space/conservation easement” and a “scenic easement”, respectively, I am uncertain as to the intended difference between the two easements. The scenic easement, which I presume is to be dedicated to the Board of Supervisors, would be ineffective as an easement on the “Future Public Passive Park” as the County would own the underlying fee. If the scenic easement is to be granted to the County as it pertains to the HOA’s open space, it appears that the purpose of the two easements, to ensure that the eased area remains undisturbed, will essentially be fulfilled by either easement, and I do not believe that both easements are necessary. However, I also note that while the open space/conservation easement allows for utilities, stormwater management, BMP

facilities, and trails there is no specific mention of these facilities in the scenic easement language. Yet, the CDP shows at least half of the stormwater management pond lying within the area intended to be subject to the scenic easement, so it is not clear whether stormwater management facilities are or are not intended to be allowed within the scenic easement area. I suggest that this be clarified. The CDP also shows a trail from between Lots 64 and 65 as necessarily having to cross the scenic easement and it is not clear if trails are to be permitted within the scenic easement. Again, I suggest that this be clarified. One way to do this would be to incorporate the last sentence of proffer 18, which allows for the removal of dead, damaged, dying or diseased trees, into proffer 13, while retaining the existing exemption found within proffer 13, and then deleting proffer 18.

Applicant Response: *Proffers 13 and 18 have been revised as recommended by staff, with proffer 18 being deleted and the last sentence of proffer 18 being included in proffer 13.*

2. In regard to proffer 16.D., in the second line thereof, I suggest that the phrase “shown on Sheet 3 of the CDP” be changed to read “shown on Sheet 4 of the CDP as ‘5’ sidewalk with steps”.

Applicant Response: *Proffer 16.D has been revised as recommended by staff.*

3. In further regard to proffer 16.D., in the third line thereof, the applicant has referenced “Lots 121, 122, 162 and 163”. Based on what is shown on the CDP, I suggest that this be changed to “Lots 119, 120, 161 and 162”.

Applicant Response: *The lot numbers now reflect lots 120/121 and 163/164, since these are now the four lots straddling the sidewalk referenced in this proffer on the revised CDP.*

4. In regard to proffer 25., in the eighth and ninth lines of the second paragraph thereof, I suggest that the phrase “in the Proffer Statement dated July 6, 2009 and revised through January 11, 2010” be deleted. Not only is the second referenced date incorrect, this whole phrase is unnecessary, as the preceding cross reference to Proffer 23 is sufficient

Applicant Response: *Proffer 24 (formerly proffer 25) has been revised to delete the phrase as recommended by staff.*

5. In regard to proffer 31., concerning the reforestation plan, I note that in some instances the applicant uses capital letters, appearing to create the term “Reforestation Plan” as a term of art, and at other times in the proffer, the term is written with lower case letters. I suggest that the term be clearly made a term of art and that capital letters be used consistently in referencing the Reforestation Plan.

Applicant Response: *Proffer 30 (formerly proffer 31) has been revised to consistently capitalize “Reforestation Plan” as a term of art as recommended by staff.*

6. In regard to the cover sheet for Exhibit B, I suggest that the word “preared” be changed to “prepared”.

Applicant Response: *The cover sheet for Exhibit B has been revised as recommended by staff.*

7. These proffers will need to be signed by all landowners, and be notarized, prior to the public hearing on this application before the Board of Supervisors.

Applicant Response: *Comment noted.*

**LOUDOUN COUNTY DEPARTMENT OF BUILDING & DEVELOPMENT –
ENVIRONMENTAL REVIEW TEAM (TODD TAYLOR, 2/17/2010)**

1. The applicant's responses indicate that the City of Fairfax defines the southern limits of the Goose Creek Reservoir as 200 feet south of the Sycolin Road bridge. As indicated in a telephone conversation and an electronic mail to the applicant's engineer, Rich Brittingham with Dewberry, the limits of all drinking water reservoirs within the County are based on data from the Virginia Department of Environmental Quality. Since the City of Fairfax's limits differ from those of DEQ, staff requests additional information regarding the basis for the City of Fairfax's reservoir limits. To ensure compliance with Facilities Standards Manual (FSM) Section 5.320.D.7.a, staff recommends that this discrepancy be rectified prior to the approval of the subject application.

Applicant Response: *A letter from the City of Fairfax, the owner and operator of the Goose Creek Reservoir, indicates the limits of the reservoir from their perspective as being located approximately 200 feet south of the Sycolin Road bridge over Goose Creek. This location is approximately where the elevation of Goose Creek Equals the elevation of the top of the dam for the reservoir. The City of Fairfax letter is attached to this response letter. Since the reservoir limits are located north of this property, the property is not subject to FSM Section 5.320.D.7.a.*

2. Based on the plan enlargements provided on Sheet 7, potential house locations for lots 19, 20, and 168 are located approximately 3 to 8 feet from very steep slope areas. To comply with Section 5-1508(D)(1)(c) of the Revised 1993 Loudoun County Zoning Ordinance, please demonstrate through plan and profile views that the proposed houses are constructible without impacting very steep slopes.

Applicant Response: *Sheet 7 shows house locations for lots 19, 20, 29 and 30. Lot 168 has been relocated and no longer is in close proximity to very steep slope areas and is no longer shown on Sheet 7.*

3. Staff recommends revising the existing proffer to provide a viable reforestation project that will help protect Goose Creek from the proposed development. The

current reforestation proffer provides less environmental benefit than previous Proffer 19 (Goose Creek Reservoir Protection Buffer and Scenic Easement) and Proffer 23 (Riparian Planting Plan) associated with rezoning ZMAP-2004-0006. Livestakes and fascines are not appropriate at the new planting locations as they are best suited in areas of moist soil conditions where water levels fluctuate mildly. More specifically, livestock and fascines are best suited along the bank toe and bank face in areas where scour is not severe, adding structural stability to the streambank to prevent erosion. Also, the southern planting area corresponds with the embankment of the proposed stormwater management pond. Minimum Standard 3.01 of the Virginia Stormwater Management Handbook (Page 3.01-13) states that trees, shrubs, or any woody plants should not be planted on the embankment or adjacent areas extending at least 25 feet beyond the embankment toe. In addition, a meeting with the U.S. Army Corps of Engineers (Corps) and Virginia Department of Environmental Quality (DEQ) did not indicate that the previous proffered channel stabilization/reforestation techniques were problematic. The agencies only indicated that in-stream activities would need to be reflected as part of the wetland permit.

Applicant Response: *The applicant has revised the reforestation plan to a configuration recommended by staff at a meeting held on March 4. The revised reforestation plan is shown on Sheet 8 of the CDP and replaces the prior plan proposed on Sheets A of A, B of B and C of C. The materials proposed are appropriate for the proposed location and are consistent with staff recommendations for plant size.*

4. The applicant's responses state that they can agree to provide the County with any information submitted to the National Association of Homebuilders (NAHB) for purposes of receiving certification. Staff recommends that Proffer 34 (Building Standards) be updated to reflect that agreement. As previously stated, staff commends the applicant for including the proffer, but has concerns regarding enforceability. While the above agreement keeps the County informed of performance points being pursued, the current proffer does not have a mechanism that ensures fulfillment. Staff recommends that the proffer include a commitment to a surety that the County will release when certification is awarded, or once County staff verifies independently that the green building features have been completed. Said surety would need to be distinct from performance bonds required by the FSM. A similar approach was included as a note in the Conditions of Approval for SPEX-2008-0052 Kincora Village for the recreational facility (baseball stadium), as well as LEED projects in Arlington County being pursued as part of floor area ratio (FAR) incentives.

Applicant Response: *The applicant is continuing the proffer to construct the homes in accordance with the NAHB bronze level green building standards. After speaking with Susan Glass on the staff of Zoning Administration, the applicant is proffering to provide the certificate issued by the NAHB as a condition of receiving the occupancy permit for each dwelling unit. The flow chart illustrating the NAHB certification process is attached and demonstrates that this program is designed to assure compliance with their green building standards through the use of an independent verifier. The applicant is voluntarily agreeing to this process at added expense and is sufficiently rigorous for the county to rely on the certificate issued by NAHB.*

5. Wetland permit WP4-09-0369 was issued on July 8, 2009 for the previous development layout. The permit authorizes the compensation for permanent wetland impacts through the purchase of 0.51 wetland credits from the Cedar Run Wetlands Bank in Prince William County, Virginia. The applicants responses state that they will use the previous purchased credits to offset any revised wetland mitigation required caused by the new layout, but will purchase any additional required mitigation from an approved wetland bank located within Loudoun County. The previously purchased credits are inconsistent with Policy 23 on Page 5-11 of the Revised General Plan which states that "the County will support the federal goal of no net loss to wetlands in the County."

Applicant Response: *The Virginia General Assembly has passed legislation that supersedes this county policy. Therefore, the applicant has removed the proffer to offset any additional wetland mitigation beyond the 0.51 acres already purchased, if any, within Loudoun County, since the applicant believes that the requested proffer will be contrary to state law.*

LOUDOUN COUNTY PARKS, RECREATION AND COMMUNITY SERVICES (BRIAN FULLER, 2/16/2010)

1. On Sheet 3 of the CDP, please label Landbay "C" Open Space Dedication Line as, "Future Public Passive Park."

Applicant Response: *Sheet 3 has been revised as recommended.*

Issue Status: **Resolved.**

Applicant Response: *Comment noted.*

2. PRCS requests that the Applicant proffer signage within the "Future Public Passive Park" in Landbay C. This may include, but not be limited to, entrance signage, interpretive signage, and trail markers. The signage should meet PRCS standards at the time of installation.

Applicant Response: *The applicant is proffering a \$1,000 contribution to the County to install directional signage for the passive park.*

Issue Status: PRCS acknowledges the addition of Proffer 36 and appreciates the Applicant's contribution toward future park signage. However, Staff requests that the 2nd sentence of Proffer 36 be revised to state the contribution shall be paid at time of parkland dedication at County request, per Proffer 12.

Applicant Response: *Proffer 35 (formerly Proffer 36) has been revised as recommended by staff.*

Issue Status: **Resolved.**

Applicant Response: *Comment noted.*

3. PRCS requests a revised entrance to Landbay C, to include a trailhead with vehicular parking in the vicinity of the future Loudoun Water Pump Station.

Applicant Response: *Since this is a single family residential community, it was never intended that Belmont Glen Village would provide vehicular access for members of the public to access the Goose Creek passive linear park. Rather, vehicular traffic could park and access the linear park from the Tillet park site to the south of the commercial portion of Goose Creek Village to the north. Pedestrian access is being provided to the general public from the Belmont Ridge Road trail via the access trail provided on the existing gravel roadway along the south side of Belmont Glen Village property to the pedestrian sidewalk network within Belmont Glen Village to the break between lots 184 and 185. The applicant will grant a public access to the County-owned parkland over the access driveway being constructed to access the stormwater management pond for maintenance.*

Issue Status: Staff notes the labels on the CDP and the revision of Proffer 16. However, please revise the 1st sentence, line 5, to refer to Proffer 11 above, not Proffer 12.

Furthermore, please revise the Proffer to state that a public access easement will be placed over the trail at the time of public parkland dedication, per (revised) Proffer 12.

Applicant Response: *Proffer 16 has been revised as recommended by staff.*

Issue Status: Resolved.

Applicant Response: *Comment noted.*

4. PRCS requests that the Applicant consider adjusting the location of the "SWM Pond" out of Landbay C.

Applicant Response: *The land area encompassed by the SWM pond has been excluded from the area being dedicated to the County, in response to staff's request. The applicant is maintaining the current commitment of dedicating 61.33 acres to the County for the passive linear park along Goose Creek.*

Issue Status: Resolved.

Applicant Response: *Comment noted.*

CONCLUSION:

PRCS has reviewed the Applicant's responses and would not be in objection to an approval of this application as presented.

Applicant Response: *Comment noted.*

**LOUDOUN COUNTY DEPARTMENT OF PLANNING – COMMUNITY PLANNING
(KELLY WILLIAMS, 2/2/2010)**

Elabarger, Mike

From: Williams, Kelly S.
Sent: Tuesday, February 02, 2010 9:13 AM
To: Elabarger, Mike
Cc: Keegan, Cynthia
Subject: Belmont Glen Village, third submittal

Mike,

I have reviewed the ZCPA 2009-0007 & ZMOD 2009-0004, Belmont Glen Village, third submission dated January 29, 2009. I have no further comments on this application.

Kelly

Applicant Response: *Comment noted.*

**LOUDOUN COUNTY DEPARTMENT OF BUILDING & DEVELOPMENT – LAND
SUBDIVISION (WILL HIMEL, 2/9/2010)**

Previous comments were satisfactorily addressed and no additional comments are offered at this time. Should additional revisions be forthcoming, Staff requests an opportunity to review these documents.

Applicant Response: *Comment noted.*

**LOUDOUN COUNTY OFFICE OF TRANSPORTATION SERVICES (LOU MOSURAK,
2/9/2010)**

Elabarger, Mike

From: Mosurak, Lou
Sent: Tuesday, February 09, 2010 11:00 AM
To: Elabarger, Mike
Cc: Beacher, Andrew; Smithson, Terri
Subject: ZCPA 2009-0007, ZMOD 2009-0004 -- Belmont Glen Village (OTS 3rd Referral Comments)

Mike – This email serves as the 3rd OTS referral on these applications. I have reviewed the materials you provided on 2/1/10 and have no additional comments beyond those stated in the 2nd OTS referral dated 11/19/09. **Subject to VDOT confirmation that the proposed public streets are consistent with the 2009 Secondary Street Acceptance Requirements (SSAR), OTS would have no objection to the approval of these applications.**

Please let me know if you need anything further regarding these applications.

Lou

Applicant Response: *Responses to VDOT comments are provided below.*

VIRGINIA DEPARTMENT OF TRANSPORTATION (RASHID SIRAJ, 2/25/2010)

We have reviewed the above revised application as requested and have no objection to the approval with the following comments:

1. The computations for connectivity index should also take into consideration connection to existing/future streets. Accordingly the intersection of existing Fairhunt Drive/Holly Knoll and Leesylvania Courts (Segments=3, Intersection=1), and the future connection to the adjacent property, Goose Creek Preserve, (Segment=1, Intersection=1), should also be accounted for. The total number of “Street Segments” and the “Intersections” therefore should be 15 and 10 respectively, giving a Connectivity Index (CI) of $15/10 = 1.5$. Since the computed index for the designated “Suburban” area is greater than the required minimum value of 1.4, connectivity for this development is satisfied and no further exclusion is needed. (Note: In case exclusion was required then the distances should have been clearly identified on the plan view also.)

Applicant Response: *The computations for the connectivity index found on sheet 4 of the CDP have been revised according to VDOT’s recommendations.*

2. The applicant is cautioned that the above computed connectivity index is only applicable to the development of this property in a “single” phase. However, if phasing is proposed then each area shall individually satisfy the requirement of the connectivity index and provide access in multiple directions (minimum two (2) are needed).

Applicant Response: *No phasing is proposed with this zoning application. Should the applicant submit the preliminary subdivision plans in phases, which is not contemplated by the application, the applicant acknowledges that the connectivity index requirement will need to be met for each phase.*

We look forward to being scheduled for the April Planning Commission public hearing. Please let me know if you need any additional information.

Sincerely,

WALSH, COLUCCI, LUBELEY, EMRICH &
WALSH, P.C.

Christine Gleckner, AICP
Land Use Planner

Enclosure

cc: Rick Entsminger, Bayshire, LLC
James Mobley, Bayshire, LLC
Rich Brittingham, Dewberry
David Weems, Dewberry